



**THE ATTORNEY GENERAL
OF TEXAS**

November 15, 1988

**JIM MATTOX
ATTORNEY GENERAL**

Mr. James R. Lindley
American Educational
Complex System
General Counsel
U.S. Highway 190 West
Killeen, Texas 76542

Open Records Decision No. 512

Re: Whether Section 4A of the Texas Open Records Act, article 6252-17a, V.T.C.S., authorizes a governmental body to refuse release information to requestors who make repeated requests for the same information. (RQ-1519)

Dear Mr. Lindley:

The American Educational Complex System has received repeated requests under the Texas Open Records Act, article 6252-17a, V.T.C.S., for the minutes and supporting documents for certain board meetings. You ask whether section 4A of the act authorizes the system to deny repeated requests for the same data by the same party. Section 4A must be considered in the context of the overall scheme of access to public information established by the Open Records Act.

Section 4 of the Open Records Act deals generally with physical access to original public records. As a general rule, section 4 gives requestors the option to take notes from original documents or to pay for copies of public records, or both. Open Records Decision No. 152 (1977); see also Open Records Decision No. 38 (1974). On the other hand, if giving actual physical access would reveal confidential information, the option must be denied. Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668, 687 (Tex. 1976), cert. denied 430 U.S. 931 (1977); Attorney General Opinion JM-672 (1987).

Section 4A, added by the 70th Legislature in 1987, also deals with physical access to original public records. Section 4A provides:

(a) A person requesting public information must complete the examination of the

information within 10 days after the date the custodian of the information makes it available to the person.

(b) The custodian shall extend the initial examination period by an additional 10 days if, within the initial period, the person requesting the information files with the custodian a written request for additional time. The custodian shall extend an additional examination period by another 10 days if, within the additional period, the person requesting the information files with the custodian a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the custodian if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

You contend that the legislature intended this provision to prevent members of the public from making repeated requests for copies of the same information. Section 4A does not, however, address providing copies of public records. It deals only with providing physical access to original records.

This construction is supported by the language of subsection (c) of section 4A. Subsection (c) provides, in part, that "time during which a person may examine information may be interrupted by the custodian if the information is needed for use by the governmental body." See also V.T.C.S. art. 6252-17a, § 4 (must certify fact that information is in immediate active use when request is denied on that basis). This language and the reference to completing "the examination of the information" both indicate that section 4A limits the time period during which a member of the public may physically inspect public records. Section 4A does not authorize the system to deny the request at issue. This decision does not address the issue of harassment through repeated requests or the issue of when a governmental body may be deemed to have complied with a particular request.

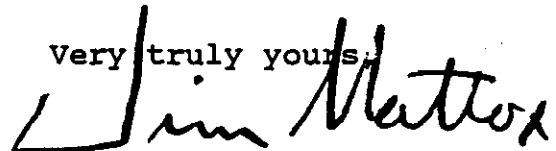
The information at issue, the minutes of public meetings, must be released. The notes, minutes, and tape

recordings of public meetings are public records. See Open Records Decision Nos. 225 (1979); 121 (1976); 32 (1974); see also V.T.C.S. art. 6252-17, § 3B. The "supporting documents" may be withheld only if one of the act's specific exceptions protects them.

S U M M A R Y

Section 4A of the Texas Open Records Act, article 6252-17a, V.T.C.S., limits the time period during which a member of the public may physically inspect public records. Section 4A does not authorize governmental bodies to deny repeated requests for copies of public records.

Very truly yours,

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive, slightly stylized font. The first letter "J" is large and loops around the "i". The "M" and "T" are also prominent, with the "T" having a long horizontal stroke.

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